IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 2755 of 2005(C)

PETITIONER:

MOHAMMED ASHRAF.T., 4B,
LINK HEIGHTS, PANAMBILLY NAGAR,
KOCHI-36.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENT:

E.S.I. CORPORATION,
REPRESENTED BY THE MANAGER,
LOCAL OFFICE, ESI CORPORATION,
FORT COCHIN.

BY ADV. SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 2755 OF 2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE REPORT OF THE ADVOCATE COMMISISONER, DT.12.12.01 IN IA NO.8787 OF 2001 IN OS NO.2048/2001 OF THE MUNSIFF'S COURT, ERNAKULAM.

EXT.P2 : TRUE COPY OF THE JUDGMENT AND DECREE OBTAINED BY THIS PETITIONER IN OS NO.2048/2001, DT.27TH FEBRUARY, 2004 OF THE MUNSIFF'S COURT, ERNAKULAM.

EXT.P3 : TRUE COPY OF THE COMPLAINT FILED BY THIS PETITIONER BEFORE THE DIRECTOR GENERAL OF POLICE, DT.06.07.2002.

EXT.P4 : TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE CEO, DT.FEBERUARY, 2003 (SERVED ON 11.02.03) BEFORE THE OCMPANY LAW BOARD, IN CP NO.3 OF 2003.

EXT.P5 : TRUE COPY OF THE ORDER OF THIS HON'BLE COURT, IN CP NO.6 OF 2003, DT.18.06.2004.

EXT.P6 : TRUE COPY OF THE INTERIM ORER PASSED BY THE HON'BLE HIGH COURT IN WPC NO.26079 OF 2004, DT.16.09.2004.

EXT.P7 : TRUE COPY OF THE LETTER ISSUED BY THIS PETITIONER TO THE RESPONDENT, DT.08.05.2004.

EXT.P8 : TRUE COPY OF THE REPLY LETTER GIVEN BY THIS PETITIONER, DT.11.09.03, TO THE RESPONDENT.

EXT.P9 : TRUE COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, THOPPUMPADY, DT.28.01.2004.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 2755 OF 2005

Dated this the 26th day of July, 2007

JUDGMENT

The persuasive submissions of Mr.Sahasranaman notwithstanding, I do not think that this court will be justified in quashing Ext.P9 compliant straight away. Of course, on the basis of the documents produced along with the writ petition the learned Magistrate may be justified in acquitting the accused even without trial. The petitioner is permanently exempted from appearing in person before the learned Magistrate. The petitioner is also permitted to produce copy of this Writ Petition as well as the various documents before the Magistrate. The learned Magistrate will hear the petitioner through counsel and pass orders on the question of maintainability of the complaint at the earliest and at any rate within three weeks of the petitioner producing a copy of this judgment and copies of the documents.

PIUS C. KURIAKOSE, JUDGE

btt